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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,695	06/12/2001	Stephan Heck	H 3172A-PCT/US	6462

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COGNIS CORPORATION  
PATENT DEPARTMENT  
300 BROOKSIDE AVENUE  
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EXAMINER
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PRICE, ELVIS O

ART UNIT	PAPER NUMBER
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1621

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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**MAILED**  
**JUN 26 2006**  
**GROUP 1600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/880,695  
Filing Date: June 12, 2001  
Appellant(s): HECK ET AL.

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Aaron R. Ettelman  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 6/14/04 appealing from the Office action  
mailed 10/20/03.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Co-pending U.S. patent application serial number 09/874,899.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Koehler et al. (US Pat. 5,672,781).

Koehler et al. disclose the presently claimed mixture of fatty alcohols having an iodine number of 75 and a hydrocarbon chain (which corresponds to R1 of formula (I) in claim 3 of the presently claimed invention) radical having from 14 to 20 carbon atoms (see Example 2).

### **(10) Response to Argument**

Appellant has submitted a number of arguments regarding the rejection of record. With regard to the arguments, citing the differences in the presently claimed process for preparing the presently claimed fatty alcohols versus the Koehler et al. process for preparing fatty alcohols, the Examiner continues to hold that such arguments are immaterial considering that only appellant's product by process claim has been rejected and not the process claim. The Examiner does not dispute that appellant's presently claimed process for preparing the fatty alcohols is patentably distinct from prior art processes. However, the allowance of the process claims should

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not and does not imply that the product produce, by the presently claimed process, is patentably distinct.

Appellant admits that Koehler et al. disclose a mixture of fatty alcohols having an iodine value within the presently claimed range, and a range of carbon chains of from C14 to C20, but then argues that Koehler et al. subjects the said mixture to additional processing steps which alter the fatty alcohol profile such that the content of various alcohols is different than the claimed invention.

This argument is not convincing because nowhere in the Koehler et al. reference is there any indication that the fatty alcohol obtained by Example 2 in the Koehler et al. reference was subjected to additional processing steps. Even if Koehler et al. subjected the fatty alcohol mixture (obtained in Example 2), which they do not, it would not negate the fact that the said fatty alcohol mixture was known in the art and anticipated the presently claimed fatty alcohol mixture.

Appellant argues that Koehler et al. discloses a mixture of fatty alcohols having an iodine value of 75, however, this mixture contains only about 12% by weight of C16 alcohols and contains about 4% conjugated species, wherein mixtures of fatty alcohols according to the claimed invention contain about 18-19% of C16 alcohols and have a higher conjugated species content.

Such an argument is without merit because appellant's claim language does not account for specific weight percentages of any components contained in the mixture of fatty alcohols.

**(11) Related Proceeding(s) Appendix**

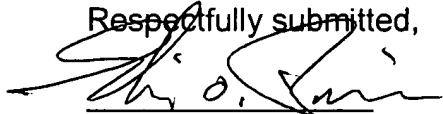
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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

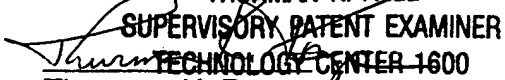
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



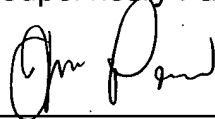
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